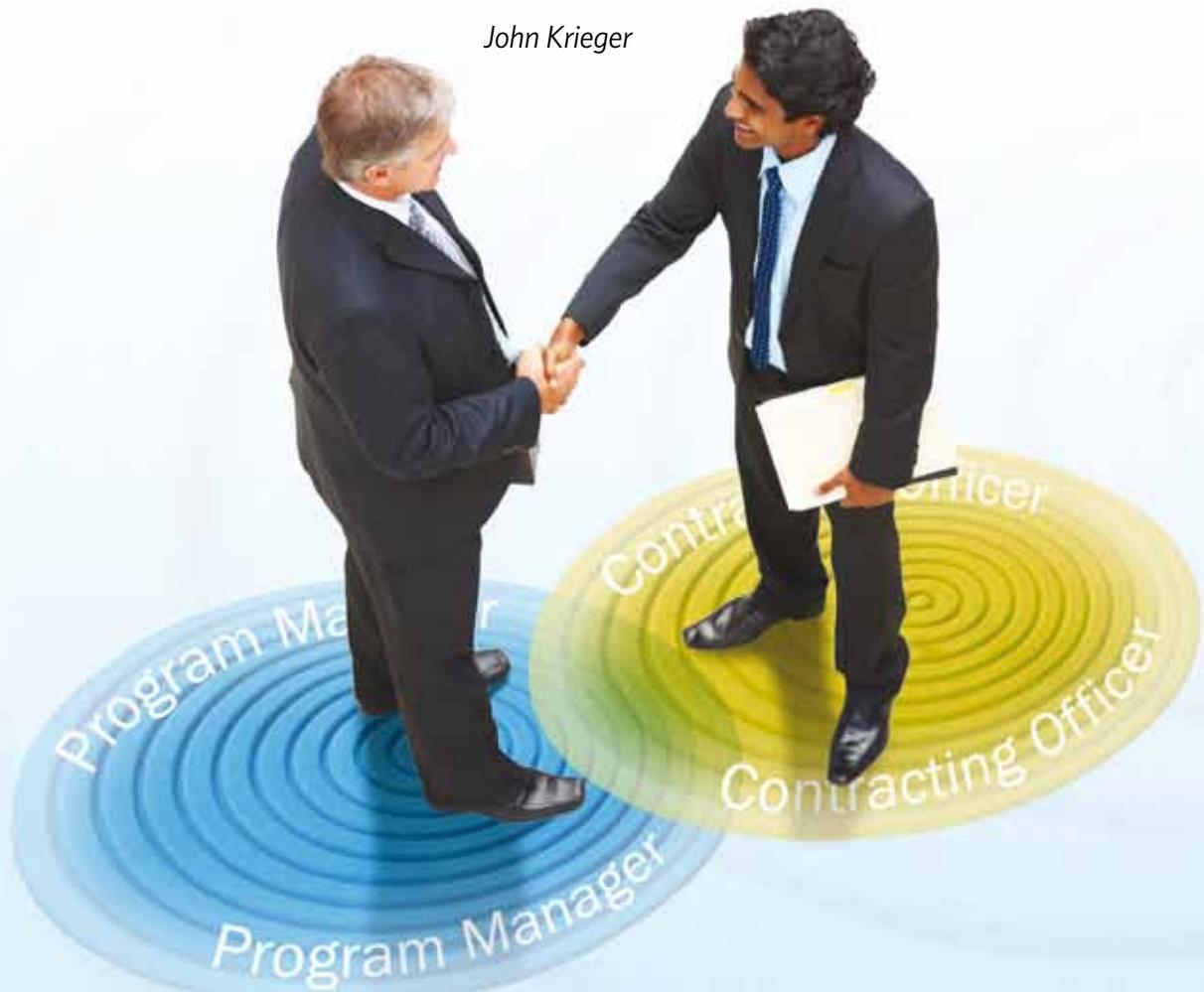


# Knowing and Loving Your KO

A Guide for Program Managers

John Krieger



In the OSD Study of Program Manager Training and Experience, program managers gave high marks to their acquisition training concerning "Contracting Challenges." But, personal one-on-one interviews with Program Executive Officers and Program Managers caveated that by indicating that they were concerned about how to communicate, and get along with, their contracting officers (KOs). No surprise there. How do we go about achieving that?

## The Study

Over the last several years, the Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), in conjunction with DAU, as part of its human capital initiatives, has been conducting competency assessments of various acquisition functional communities (e.g., Acquisition and Program Management, Contracting, Life Cycle

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**Table 1. Percent of interviewees answering “yes” to whether acquisition training was sufficiently practical and comprehensive.**

	“Yes”
<b>Responding to Military Service Inquiries</b>	<b>63%</b>
<b>Contracting Challenges</b>	<b>59%</b>
<b>Understanding and Using Government Financial Reports</b>	<b>55%</b>
<b>Responding to OSD Inquiries</b>	<b>55%</b>
<b>Systems Engineering Challenges</b>	<b>53%</b>
<b>Responding to Inquiries From Outside DoD</b>	<b>53%</b>
<b>Changes in Technical Requirements</b>	<b>51%</b>
<b>Test and Evaluation Challenges</b>	<b>51%</b>
Risk Management Challenges	49%
Source Selection Challenges	45%
Logistics Challenges	45%
Changes in Directed Funding	43%
Technical Failures	43%
Changes in Directed Schedules	41%
Dealing with User Requirements	41%
Understanding and Using Contractor Financial Reports	39%
Earned Value Challenges	37%
Overseeing Contractor Performance	31%
Cost Estimating Challenges	27%
Software Management Challenges	25%
Cost Control Challenges	25%
Unexpected Cost Growth	14%

Logistics). Dave Ahern, Director, Portfolio Systems Acquisition, OASD(A), the functional advisor for acquisition and program management, oversaw the conduct of an initial Program Management Competency Assessment, with a goal of reaching 1,300 employees. The survey instrument was sent to 4,271 randomly identified professionals, of whom 1,568 completed the assessment, for a total response rate of 36.7 percent. The results of the survey provided information for OSD to “Adjust human capital strategies and organizational level decision making in such areas as:

- Education, training and development modification based on learner characteristics
- Targeted recruitment and retention to shore up strengths or heal weaknesses in workforce or at the command level
- Conduct strategic human capital planning
- Workforce/manpower allocations and other resource allocations.”

However, Ahern wanted even more insight into the competency level of the functional community, so he directed the

OSD Program Management Certification Study, which was developed, conducted and prepared by DAU, with representatives of academia and industry. The study was much more targeted than the initial assessment. It consisted of two parts. One part was a set of more specific questions, provided to a targeted group of program executive officers (PEOs) and program managers (PMs). The other part consisted of in-depth interviews with PEOs and PMs. Table 1 shows the distribution of “yes” answers to the question, “Is acquisition training sufficiently practical and comprehensive (other than on-the-job training) to enable you to manage or deal effectively with this challenge?” Note that the “yes” answers to “Contracting Challenges” constitute the second highest of all the 22 generic challenges.

That said, one might think that program executive officers and program managers who took the survey are sanguine about their knowledge of contracting. Not so, as indicated by a number of comments that came out of the in-depth interviews:

- “DoD PMs often have significantly less knowledge and experience in contracting than their contractor counterparts. PMs need to be trained to read and understand the contracts relating to their acquisition program. They need training in the process of contracting as well as in the mechanics of contracting.”
- “PMs need to have sufficient depth in contracting to be able to have an intelligent discussion with their contracting officers and to know where a contracting officer does and does not have flexibility on a contract.”
- “PMs should be trained to a higher level of competence in contract incentives, including (a) award fees and (b) how government contributions to contractor overhead costs on a contract can reverse the intended effects. (Low fees undermine contract incentives.)”
- “My PM contracting training was only in the fundamentals; little training in incentives or in contracting strategies. PMs need more training to deal with contracting strategies and the intricacies of negotiations.”
- “PMs need to be trained in ways to provide contractors candid feedback on CPAF contracts.”

Based on the integrated analysis of the surveys and the interviews, the Study produced the following findings:

- Program managers need additional training in industry practices, including factors that motivate contractors and ways in which PMs can use incentives to achieve better program performance for the government customer.
- Additional earned value training with applications, combined with experience in financial management, is necessary to enable program managers to use predictive indicators to anticipate program challenges, assess more accurately the condition of their programs, and deal more effectively with financial problems.
- Additional training and experience in contracting is necessary for program managers to deal more effectively with contracting officers and contractors.

**Although nobody ever wants to address the question, a program manager is the contracting officer's COR, sans portfolio. I suspect that the relationships between KOs and PMs are governed by how they view this relationship.**

So how do we go about providing that additional training on dealing more effectively with contracting officers? Well, for my part, Ahern personally told me that I had to work on making that happen. I've gone about doing that in two ways. The first was to introduce the topic into the contracting portions of the program management courses that my teaching partner and I support in DAU's School of Program Management. The second is this article.

### **The Relationship**

What's a KO? He or she is the contracting officer. And, according to the Federal Acquisition Regulation (FAR) FAR 2.101:

"Contracting officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the contracting officer acting within the limits of their authority as delegated by the contracting officer.

Interestingly enough, the only thing that keeps a program manager from being a contracting officer's representative (COR) and, therefore, technically, a "contracting officer," is the requirement that they be designated and authorized in writing. Although nobody ever wants to address the question, a program manager is the contracting officer's COR, sans portfolio. I suspect that the relationships between KOs and PMs are governed by how they view this relationship. I would posit that the worst contracting officers believe this to be true, and the best program managers believe this to be true.

It all gets to the issue of who is in charge. Whom does the contract belong to? Some contracting officers will say that it belongs to them. Some program managers will say it belongs to them. Although some of you might believe this is like trying

to decide whether the glass is half full or half empty, it is not. If you look at Block 27 of a Standard Form 33, Solicitation, Offer and Award, you'll find the truth of the matter is that it belongs to the United States of America, although it has been signed by a contracting officer. (By the way, the glass is neither half empty nor half full; it's the wrong size.)

Part of the reason that contracting officers might believe that they are the top dog is that the term "contracting officer" appears 5,381 times in the FAR, while the term "program manager" appears a mere 7 times. If it would help program managers feel better, the term "systems engineer" appears 0 times in the FAR. But, it's not about the contracting officer, program manager, systems engineer, or any other functional personnel, it's about the acquisition team: "The Acquisition Team consists of all participants in Government acquisition including not only representatives of the technical, supply, and procurement communities but also the customers they serve, and the contractors who provide the products and services."

Very closely related to the question of ownership of the contract is ownership of the single most important document that sets up the contract, the acquisition strategy. And, although ownership of the contract might appear ambiguous in the FAR, ownership of the strategy is not:

The program manager, as specified in agency procedures, shall develop an acquisition strategy tailored to the particular major system acquisition program. This strategy is the program manager's overall plan for satisfying the mission need in the most effective, economical, and timely manner. The strategy shall be in writing and prepared in accordance with the requirements of Subpart 7.1, except where inconsistent with this part, and shall qualify as the acquisition plan for the major system acquisition, as required by that subpart.

So, before there is a contract, the program manager (PM) owns the Acquisition Strategy that the contracting officer will seek to implement. In the Department of Defense, the PM also owns the acquisition plan, if written as a separate document. Defense Federal Acquisition Regulation Supplement (DFARS) 207.103(g) states, "The program manager, or other official responsible for the program, has overall responsibility for acquisition planning." On the acquisition team, the PM is responsible for what needs to be done to execute the program through the various phases, as articulated in the acquisition strategy. The KO, in concert with the PM and other members of the acquisition team, implements that strategy through the contract with industry, recognizing, of course, that the acquisition strategy also includes efforts with other parts of the Defense enterprise (e.g., test community, field agencies).

One of the comments we often hear from PMs is, "My contracting officer is always saying no." There may be a reason for that, because although the FAR is a very permissive document, "no" appears 1,150 times. Even if you exclude the 149

**Table 2. Instances of Negative Phrases in the Federal Acquisition Regulation**

No	1150
No.	149
Prohibit	17
Prohibits	13
Prohibited	74
Shall Not	730
May Not	133
None	55
Yes	612

are only two other yeses, both references to the "yes" radio button on the Governmentwide Point of Entry (GPE) (<https://www.fedbizopps.gov>).

Does that mean the FAR should be used to say no? Just the opposite. The statement of guiding principles for the Federal Acquisition System, which was added on July 3, 1995, the program manager's Independence Day, included the following statement at FAR 1.102-4(e):

The FAR outlines procurement policies and procedures that are used by members of the Acquisition Team. If a policy or procedure, or a particular strategy or practice, is in the best interest of the Government and is not specifically addressed in the FAR, nor prohibited by law (statute or case law), Executive order or other regulation, Government members of the Team should not assume it is prohibited. Rather, absence of direc-

instances where that is the abbreviation for number, that leaves a lot of noes. And, that isn't even counting prohibit, prohibits, prohibited, shall not, may not, none. But, the counts for those appear in the table below. Unfortunately, of the 612 times the word "yes" appears, 610 are in check blocks for contractor responses in provisions or clauses or in the clause matrix, used for selecting provisions and clauses. There

**Table 3. FAR and DFARS/PGI Changes**

- 51 Federal Acquisition Circulars (FACs) issued since March 2005 [Through FAC 2005-51]
  - + 4 Amendments
  - + 1 Technical Amendment
  - + 1 Revision
  - + 1 Addendum [20 pages]
  - + 1 Thresholds Matrix [34 pages]
  - + 8 Corrections
- 90 Defense FAR Supplement Publication Notices<sup>1</sup> issued since January 2008 [Through DPN 20110511]
- 64 Open FAR Cases
- 72 Open DFARS Cases

<sup>1</sup> Previously Designated Defense FAR Supplement Change Notices.

These changes do not even take into account the myriad of USD(AT&L) and DPAP policy memoranda.

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tion should be interpreted as permitting the Team to innovate and use sound business judgment that is otherwise consistent with law and within the limits of their authority. Contracting officers should take the lead in encouraging business process innovations and ensuring that business decisions are sound.

That language is the license to say YES! So how do the program manager and the contracting officer get to yes? Look for the answer in Part 2—appearing in the January–February 2012 issue of *Defense AT&L*.

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